

**Deposition Designations for:
WILMA REBECCA SHEARER
February 4, 1998**

Deposition Designation Key

**Arrowood = Arrowood Indem. Co.
f/k/a Royal Indem. Co. (Light Green)**

BNSF = BNSF Railway Co. (Pink)

**Certain Plan Objectors "CPO" = Government Employees Insurance Co.; Republic Insurance Co.
n/k/a Starr Indemnity and Liability Co.; OneBeacon America Insurance Co.; Seaton Insurance
Co.; Fireman's Fund Insurance Co.; Allianz S.p.A. f/k/a Riunione Adriatica Di Sicurtà; and Allianz
SE f/k/a Allianz Aktiengesellschaft; Maryland Casualty Co.; Zurich Insurance Co.; and Zurich
International (Bermuda) Ltd.; Continental Casualty Co. and Continental Insurance Co. and
related subsidiaries and affiliates; Federal Insurance Co.; and AXA Belgium as successor to Royal
Belge SA (Orange)**

CNA = Continental Cas. Co & Continental Ins. Co. (Red)

**FFIC = Fireman Funds Ins. Co. (Green)
FFIC SC = Fireman Funds Ins. Co. "Surety Claims" (Green)**

GR = Government Employees Ins. Co.; Republic Ins. Co. n/k/a Starr Indemnity and Liability Co.

Libby = Libby Claimants (Black)

OBS = OneBeacon America Ins. Co. and Seaton Ins. Co. (Brown)

PP = Plan Proponents (Blue)

Montana = State of Montana (Magenta)

Travelers = Travelers Cas. and Surety Cos. (Purple)

UCC & BLG = Unsecured Creditors' Committee & Bank Lenders Group (Lavender)

**AFNE = Assume Fact Not in
Evidence**

AO = Attorney Objection

BE = Best Evidence

Cum. = Cumulative

Ctr = Counter Designation

Ctr-Ctr = Counter-Counter

ET = Expert Testimony

F = Foundation

408 = Violation of FRE 408

H = Hearsay

IH - Incomplete Hypothetical

L = Leading

LA = Legal Argument

LC = Legal Conclusion

LPK - Lacks Personal Knowledge

LO = Seeking Legal Opinion

NT = Not Testimony

Obj: = Objection

R = Relevance

S = Speculative

UP = Unfairly Prejudicial under Rule 403

V = Vague

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1 Q What's her name?

2 A Opal Mongon.

3 Q When did she die?

4 A '86, '87.

5 Q How old was your father when he passed
6 away?

7 A 59.

8 Q How old was your mother?

9 A 74 or 76.

10 Q Did your mother ever work outside the
11 home?

12 A Not when we were growing up. She did work
13 after my dad passed away. She worked as a waitress
14 and a dishwasher.

Libby

15 Q Your parents brought you and your older
16 brothers and sister out to Libby in about 1945?

17 A '44.

18 Q What did they do for a living?

19 A What did they do?

20 Q Yeah.

21 A My dad worked for awhile at the box
22 factory at the mill. He didn't work there very
23 long. I only know this just from hearing them talk
24 when I was growing up. And then he went to work for
25 Zonolite.

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1 Q What did he do at the box factory?

2 A I don't know.

3 Q What did he do at Zonolite?

4 A That I know of, I know he did some welding
5 and was a mechanic, but I don't know.

6 Q Did he smoke?

7 A He smoked cigarettes for awhile, and then
8 he went to cigars, smoked a few cigars.

9 Q As long as you can remember the image of
10 your father, did you know him to smoke?

11 A Yes, but not very much. I remember him
12 smoking, but he never smoked very much. Like at
13 night he might have a cigar.

Libby

14 Q Do you remember him coming home when you
15 were a child?

16 A Yes.

17 Q Okay. And there's been some reference to
18 that in the legal papers that were filed for you on
19 this case. Can you tell me about your recollections
20 of that?

21 A My father?

22 Q Yeah.

23 A I remember us kids slapping his clothes
24 and leaving handprints on him from the dust.

25 Q How old were you then?

Libby

- 1 A Probably about five or six because we used
2 to climb all over our dad.
3 Q And who is "We"?
4 A My sisters and I. Usually, most of the
5 time it was my younger sister and I.
6 Q You and Donna?
7 A Yeah.
8 Q Where was Betty at that time?
9 A Well, she was older. I don't -- She just
10 didn't climb around on Dad like we did.
11 Q So it was mostly you and Donna? Is that
12 what you're saying?
13 A Yeah. We were Dad's girls.
14 Q How old would you have been about that
15 time?
16 A Just -- I don't know. I was just young.
17 I can remember him back before I ever went to
18 school. I can remember him giving me a bath in the
19 sink and Donna a bath in the sink. We never -- We
20 had running water in the kitchen. He'd set us up in
21 the sink.
22 Q That's out here in Libby?
23 A Uh-huh.
24 Q Is that a, Yes?
25 A Yes.

Libby

- 1 Q So you'd have been maybe five years old?
- 2 A Yeah. Four, five, six.
- 3 Q Did you start school about age six?
- 4 A Yeah.
- 5 Q So you have a memory of you and Donna
- 6 slapping your dad when he'd come home from work and
- 7 leaving your handprints on his dusty clothing? Is
- 8 that what you're saying?
- 9 A Yes.
- 10 Q And it's your understanding, at least,
- 11 that he was working at the Zonolite mine at that
- 12 point in time?
- 13 A Yes, he was.
- 14 Q But you have no personal knowledge or
- 15 information about what he was doing at Zonolite at
- 16 that time?
- 17 A I don't -- I was just a little kid.
- 18 Q And there are no records and no way to
- 19 even begin to try and piece together what he would
- 20 have been doing at that time?
- 21 A Unless you can find somebody that worked
- 22 with him.
- 23 Q You haven't found anyone, have you?
- 24 A My husband worked with him for awhile.
- 25 Q In 1948, '49?

1 would you?

2 A No. I was too young.

3 Q Sure. How many years did this pattern
4 continue that you can recall where your father would
5 come home dusty?

6 A All the time until he passed away.

7 Q Did he work --

8 A He was always coming home dusty.

9 Q Did he work at the mine until 1961?

10 A Yes.

11 Q And he was a mechanic throughout that
12 whole time, pretty much?

13 A And a welder, and I don't know what else
14 he done.

15 Q So your husband, Bud, was he a mechanic
16 and a welder too?

17 A No.

18 Q What area did your husband work in? I'll
19 have to ask him?

20 A I can tell you that he blasted. He worked
21 with dynamite. I know because he used to dream
22 about it.

23 Q What I'm trying to get a little sense of
24 is -- I'm of the understanding that certain parts of
25 the mine, depending where you are at on the

Libby

1 Q Near your parents?

2 A No.

3 Q Did you have much daily contact with your
4 parents after you and Bud got married?

5 A I went to my parents' every day. I walked
6 to my parents' every day.

7 Q Just to see them?

8 A Yeah. I was still a kid.

9 Q Okay. And Bud was working up in the
10 logging --

11 A He worked for J. Neils Lumber Company.

Libby

12 Q Okay. Is there anything else you can tell
13 me that you recall about growing up at your parents'
14 home as far as being around your father and anything
15 about his work and what he brought home from work?

16 A He used to bring us home all kinds of
17 stuff to play with.

18 Q Before you were married?

19 A Yes. He brought us --- He brought us home
20 Zonolite to play with.

21 Q What do you remember about that?

22 A I remember popping it on the wood stove.
23 I remember playing with it in the driveway. We used
24 to call it our gold. When sun would hit it just
25 right, it sparkled like gold. We used to call it

Libby

- 1 gold. We had it in the driveway.
- 2 Q Who is "We"?
- 3 A My dad had it in our driveway.
- 4 Q I mean, who is "We" that used to play with
- 5 it?
- 6 A All of us kids used to play with it.
- 7 Q Anything else?
- 8 A We had it in the garden.
- 9 Q This gold-colored material?
- 10 A Uh-huh. Zonolite. Dad brought it home in
- 11 bags, put it around.
- 12 Q Anything else that you remember?
- 13 A No. I don't remember nothing else.
- 14 Q Okay. Did you use it for any insulation
- 15 or anything else in the house anywhere?
- 16 A It was in our ceiling, our roof. I don't
- 17 know if it was in the walls, but I know it was in
- 18 the ceiling.
- 19 Q How did you know that?
- 20 A Because my husband and my dad put it in
- 21 the ceiling.
- 22 Q After you were married?
- 23 A No. They did it before I was married in
- 24 1954.
- 25 Q How did you get to know your husband?

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1 gold, and we'd bury it in jars. There's probably
2 still jars of it buried around that place.

3 Q Anything else that you can remember about
4 that growing up?

5 A I don't know what.

Libby

6 Q Did you have anything to do with cleaning
7 your father's clothes or anything?

8 A We was always around when Mom done the
9 laundry, but I was just a little kid. I remember
10 playing in the dirty clothes. When she'd spread
11 them out on the floor to launder them, she used to
12 yell at us, and she had an old wringer wash machine,
13 which she used it right in the kitchen. Until I got
14 older, I didn't help her. When we got older, then,
15 we used to help her. As a little kid, you didn't
16 want to be --- She didn't allow us around the wringer
17 washing machine.

18 Q ...Sure. I understand that you claim and
19 believe you have asbestos lung disease. Is that
20 accurate?

21 A Yes.

22 MR. SULLIVAN: Specifically, it's
23 asbestosis.

24 BY MR. HOISTAD:

25 Q A disease related to exposure to asbestos;

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1 Q And were you smoking about the same?

2 A No.

3 Q What were you smoking?

4 A I smoked less than a pack a day.

5 Q Three-fourths?

6 A Yeah. Or less.

7 Q And that would vary from day to day, I
8 suppose, depending on what you were doing?

9 A I worked, and I couldn't smoke.

Libby

10 Q We have a summary of where you worked, but
11 before we get into those places and times, I'd like
12 to know about your husband's work a little bit.
13 There was a time when he worked at the Grace mine,
14 as I understand it, or maybe it was Zonolite then.
15 I'm not sure.

16 A Yes.

17 Q Which was it? Do you recall?

18 A Zonolite.

19 Q And he was a blaster, you told me, I
20 think?

21 A Yes.

22 Q Is that what he did his whole time that he
23 worked there?

24 A No.

25 Q Where else did he work?

Libby

1 A He worked all over that mine. He worked
2 on the dump. He drove a truck. He worked in the
3 blasting. He worked in the cleaning.

4 Q And that was for about three years?

5 A Yeah.

6 Q Two years? 1959 until 1961?

7 A Yeah.

8 Q Now, it's my understanding that you claim
9 that he would bring home asbestos fibers on his
10 clothing that you were exposed to? Is that what
11 you're claiming?

12 A Yes.

13 Q And can you tell me what you remember
14 about that?

15 A Him coming home dusty?

16 Q Yeah.

17 A Yeah. He'd come home really white, and
18 his clothes would be full of it.

19 Q And would your children climb on him like
20 you did with your father?

21 A If they got me off his lap first. Yes,
22 our children were climbing on him too.

23 Q And was there anything else that you can
24 remember about Bud coming home from the mine as far
25 as being dusty or whatever?

Libby [

1 A Just dust, lots of dust. Of course, we
2 was -- Back in them days they wore cuffs, so he was
3 really full of it, cuffs full of it.

4 Q Now, as you sit here today, you wouldn't
5 have any idea what was in that dust, would you?

6 A No.

7 Q Okay. I mean, you wouldn't know if there
8 was asbestos in it or not, would you?

9 A No. I didn't know.

10 Q Other than yourself do you know of anybody
11 in your family who has ever had asbestosis?

12 A No.

13 Q Bud doesn't have it to your knowledge?

14 A To my knowledge, no.

15 Q And your father died of a heart attack, I
16 think you said?

17 A As far as I know.

18 Q Other than the two years that Bud worked
19 at the mine, where else did he work?

20 A He was a painter, a house painter.

21 Q So that's maybe where Clinton gets some of
22 his talent?

23 A Maybe.

24 Q How long was Bud in the painting business?

25 A He started working for his dad when he was

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1 You know, I'm freezing. I don't know, but
2 I'm really cold.

3 MR. SULLIVAN: Do you want to take a
4 moment and just put your jacket on?

5 THE WITNESS: I'll put my jacket on.

6 BY MR. HOISTAD:

7 Q We're getting nearly done. Do you want to
8 take another break for a minute?

9 A If you're almost done, let's finish.

10 Q I'm not almost, but it's not going to be
11 too much longer.

12 MR. SULLIVAN: Let's take a two-
13 minute break.

14 (Brief recess.)

15 (The reporter then read back the
16 requested material.)

17 BY MR. HOISTAD:

18 Q So last year, 1997, do I understand that
19 there was a continuing increase in the amount of
20 your coughing to the point where by July it got so
21 bad you felt you had to go to a doctor? Is that
22 what you're saying?

23 A Yeah.

24 Q Because I had the impression you woke up
25 sick one morning in July and went to the doctor.

Libby

Libby

1 A No. No. No. The cough just kept getting
2 progressive until it really got bad.

3 Q How many years have you been coughing?

4 A Coughing? Just coughing once in awhile?

5 Q Coughing more than once in awhile.

6 A Just the last year is when I really got
7 bad coughing.

8 Q Years or year?

9 A Last year, in '97.

10 Q Starting about when?

11 A Boy, I don't know, but I -- I'm trying to
12 think. I don't really know when I started coughing
13 really bad. I could probably go over and ask the
14 women at the store. They'd probably tell me more.
15 I really don't know when it was. I just started
16 coughing a lot.

17 Q Okay. This was a problem that was
18 apparent to others who worked around you at the dime
19 store?

20 A Yes.

21 Q And it got continually worse until you
22 finally got relief with medication from
23 Dr. Whitehouse?

24 A Yes.

25 Q Is that accurate?

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Libby

1 A Yes.
2 Q And did he tell you what your problem was?
3 A He told me the only thing he could find
4 wrong with me was that I had asbestosis.

5 Q And do you still have high blood pressure?

6 A Yeah. He didn't check that, I don't
7 think, but, yeah, I still have high blood pressure.

8 Q Did he tell you that he thought you should
9 quit smoking?

10 A I'd already quit.

11 Q When had you quit?

12 A I quit the day I found -- that I couldn't
13 breathe. The day I couldn't breathe, that was it.
14 All the ashtrays are out of my house. In July.
15 About the 17th of July.

16 Q Are you done?

17 A Yeah.

Libby

18 Q Okay. So there did come a time,
19 specifically July 17, that was a day that you
20 remember as being the worst; is that accurate?

21 A Well, I just woke up and couldn't breathe,
22 and it scared the snot out of me, but that's not the
23 first time that had happened.

24 Q You'd had that happen before?

25 A Yes.

Arrowood
obj: H, F

Libby

1 Q When?

2 A A few days before that it happened to me,
3 and I couldn't breathe.

4 Q Did you go to a physician at that time?

5 A That's when I was doctoring and taking the
6 stupid medication that they give me thinking I had
7 pneumonia, and the medication wasn't helping.

8 Q That was earlier in July?

9 A Yeah.

10 Q Were you smoking then?

11 A Very little. I couldn't -- You can't
12 cough and smoke like that, I tell you.

13 Q You were --

14 A I flat quit the one day. I just -- I
15 said, This is it. No more.

16 Q On July 17th?

17 A I think it was -- I think it was the
18 17th. It was either that week or the next week, and
19 I just quit. He took me to the doctor. We went
20 home. All the ashtrays was taken out of the house,
21 No Smoking, put up, and that was it. There's no
22 smoking in the house, no ashtrays, nothing.

23 Q What had gone on in your conversation with
24 the doctors or in your mind that caused you to take
25 this drastic action with regard to the ashtrays and

1 what I assume you go to Dr. Cox for --

2 A Yes, it is.

3 Q -- have you had other kinds of discomfort?

4 A No. Just my chest.

5 Q How is that? Is it pretty much the same

6 as it was when you were first over to see

7 Dr. Whitehouse last summer?

8 A No. It's getting worse.

9 Q In what way?

10 A I hurt more.

11 Q And can you tell me anything else about

12 it? Is it something that's better in the evening

13 than in the morning, or do certain things make it

14 worse or better? Anything you can tell me?

15 A Bending over really hurts. I can't stand

16 for very long. I mean, I just can't do a lot. It

17 just hurts. My chest hurts. Across my back hurts.

18 Under my ribs hurt. My diaphragm hurts.

19 Q Okay. Is there anything that relieves the
20 discomfort?

21 A If I am not sitting too long. If I lay
22 back, a lot of times that will relieve it.

23 Q Like in a recliner chair?

24 A Yeah. It's a hard thing to explain.

25 Q Any foods or medications or anything that

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Libby

1 you can associate with making the pain better or
2 worse?

3 A It doesn't make the pain better, the
4 medications I'm on, but it does help my breathing.
5 I have three of these. I take two in the morning.
6 This one I can take whenever I need to. It doesn't
7 matter how often I take this one, I guess.

8 Q You're referring to your inhalers?

9 A I take it whenever I need it. Yeah.

10 Q How about sleeping? How does that go for
11 you?

12 A Hey, one night this year I had five hours
13 solid sleep. That was it. Otherwise than that, no,
14 I don't sleep. I don't sleep. I have to sleep in
15 my recliner a lot because -- I don't know what it
16 is. I can't lay on my back in a bed because of my
17 back. I just can't do it, but in my recliner I can
18 put my feet up, you know, and then I recline, and I
19 sleep with my arms right straight down, which I
20 suppose sounds silly, but it gives me more length, I
21 guess you could say. Does that make sense? I know
22 that sounds weird, but if I'm -- See, right now I'm
23 sitting normal. Okay.

24 MR. SULLIVAN: When you say "More
25 length," are you talking about more lung -- It's

Libby

1 easier to breathe --

2 THE WITNESS: Yeah.

3 MR. SULLIVAN: -- or it helps your
4 back?

5 THE WITNESS: It's easier to
6 breathe. It's like I need more space. It's like I
7 need stretched. I know that sounds silly, but how
8 do you describe something like that?

9 BY MR. HOISTAD:

10 Q Have you been having problems because of
11 your back sleeping in a normal reclined or prone
12 position in bed for many years?

13 A No. It's not because of my back that I
14 sleep in the recliner. To lay flat -- I can't lay
15 flat.

16 Q And you haven't able to do that --

17 A For a lot of years, no.

18 Q Let's say in 1985, after you folks had
19 moved back to Libby, were you finding it was a lot
20 easier for you to rest at night if you were in a
21 semireclined --

22 A No. In '85 I slept in my bed.

23 Q When did you quit sleeping in your bed?

24 A This year. Last year.

25 Q In 1997?

Libby

1 A 1997, early in 1997. About in April or
2 May or March, somewhere in there is when I started
3 sleeping in my recliner.

4 Q Prior to that time --

5 A I slept in bed, and I sleep on my side
6 when I'm in bed.

7 Q Do you sleep in bed at all?

8 A A lot of times I start out there.
9 Sometimes if I'm really bad I don't even start out
10 in bed. I just tell my daughter, If you're watching
11 TV and I go to sleep, just turn the lights off, and
12 leave me here, so she does.,

13 Q Your daughter --

14 A Vicky.

15 Q -- Vicky, is living with you, and her
16 children are all grown, I think you said?

17 A All grown. She's a grandmother.

18 Q How do you and Vicky spend your time?

19 A How do we spend -- Just -- Most of the
20 time I'm sitting in my recliner. She said I'm
21 really good at holding it down. I have a hard time
22 sweeping because I can't take the dust.

23 Q Hard time what?

Libby

24 A Sweeping. I run out of air. I can't
25 finish doing the dishes because I run out of air. I

Libby

1 don't know. That's the only thing I say is just,
2 like, I run out of air. I can't breathe. What is
3 really silly is, I can go take a shower, get out of
4 that shower and start coughing, and by the time I'm
5 dressed, I can barely make it back the ten feet to
6 the kitchen to sit down.

7 Q Okay.

8 A And then, if I want to do anything, I've
9 got to sit there for a long time before I can get up
10 to do anything because I just don't have -- I just
11 can't.

12 Q So it's you and your daughter and your
13 husband and your son, Clinton, who live in your
14 household at the present time; is that accurate?

15 A And Vicky's husband.

16 Q And Vicky's husband --

17 A Bruce.

18 Q -- Bruce when he's in town?

19 A Yeah. Because he does work. He works in
20 Moyle. He drives back and forth.

21 Q And Clinton hasn't been working until
22 recently when he started his sign painting business;
23 is that true?

24 A Uh-huh.

25 Q So how do you folks typically, you know,